

COMMITTEE REPORT

MADAM PRESIDENT:

The Senate Committee on Corrections, Criminal, and Civil Matters, to which was referred House Bill No. 1501, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

- 1 Page 1, between the enacting clause and line 1, begin a new
- 2 paragraph and insert:
- 3 "SECTION 1. IC 5-22-1-1 IS AMENDED TO READ AS
- 4 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. Except as
- 5 provided in this chapter, this article applies to every ~~expenditure~~ use of
- 6 public funds by a governmental body.
- 7 SECTION 2. IC 5-22-1-2 IS AMENDED TO READ AS
- 8 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. **(a)** Except as
- 9 provided **in subsection (b) and otherwise** in this article, this article
- 10 does not apply to the following:
- 11 (1) The commission for higher education.
- 12 (2) A state educational institution. However, IC 5-22-15 applies
- 13 to a state educational institution.
- 14 (3) Military officers and military and armory boards of the state.
- 15 (4) An entity established by the general assembly as a body
- 16 corporate and politic. However, IC 5-22-15 applies to a body
- 17 corporate and politic.
- 18 (5) A local hospital authority under IC 5-1-4.
- 19 (6) A municipally owned utility under IC 8-1-11.1 or IC 8-1.5.
- 20 (7) Hospitals organized or operated under IC 16-22-1 through
- 21 IC 16-22-5, IC 16-23-1, or IC 16-24-1.
- 22 (8) A library board under IC 20-14-3-14(b).

(9) A local housing authority under IC 36-7-18.

(10) Tax exempt Indiana nonprofit corporations leasing and operating a city market owned by a political subdivision.

(11) A person paying for a purchase or lease with funds other than public funds.

(12) A person that has entered into an agreement with a governmental body under IC 5-23.

(13) A municipality for the operation of municipal facilities used for the collection, treatment, purification, and disposal in a sanitary manner of liquid and solid waste, sewage, night soil, and industrial waste.

(b) IC 5-22-2-13.3 and IC 5-22-3-7 apply to the entities described in subsection (a).

SECTION 3. IC 5-22-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. **(a) Except as provided in subsection (b),** this article does not apply to the following types of activities:

(1) A contract between governmental bodies except for a contract authorized under this article.

(2) A public works project.

(3) A collective bargaining agreement between a governmental body and its employees.

(4) The employment relationship between a governmental body and an employee of the governmental body.

(5) An investment of public funds.

(6) A contract between a governmental body and a body corporate and politic.

(7) A contract for social services.

(b) IC 5-22-2-13.3 and IC 5-22-3-7 apply to:

(1) a contract;

(2) a project;

(3) an agreement;

(4) an employment relationship; or

(5) an investment;

described in subsection (a).

SECTION 4. IC 5-22-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. **Except as otherwise provided,** the definitions in this chapter apply throughout this article.

SECTION 5. IC 5-22-2-13.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 13.3. "In good standing"**

means that a contractor, or the contractor's principal if the contractor is not an individual, has certified under penalty for perjury under IC 35-44-2-1 as a term of its contract with the governmental body, that:

(1) the contractor:

(A) has not violated the terms of IC 24-4.7 in the previous three hundred sixty-five (365) days, even if IC 24-4.7 is preempted by federal law; and

(B) will not violate the terms of IC 24-4.7 for the duration of the contract, even if IC 24-4.7 is preempted by federal law; and

(2) no affiliate or principal of the contractor and no person acting on behalf of the contractor or on behalf of an affiliate or principal of the contractor:

(A) has violated the terms of IC 24-4.7 in the previous three hundred sixty-five (365) days, even if IC 24-4.7 is preempted by federal law; and

(B) will violate the terms of IC 24-4.7 for the duration of the contract, even if IC 24-4.7 is preempted by federal law.

SECTION 6. IC 5-22-3-7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) This section does not apply to a contract in which one (1) party is a political subdivision.

(b) A prospective contractor may not contract with a governmental body unless the prospective contractor is in good standing.

(c) The attorney general may bring an action in the circuit or superior court of Marion County to:

(1) void a contract under this section; and

(2) obtain other proper relief.

(d) A contract between a contractor and a governmental body is voidable at the election of the attorney general, if the attorney general establishes in a civil action that:

(1) the certification concerning compliance with IC 24-4.7 is materially false; or

(2) the contractor, an affiliate or a principal of the contractor, or a person acting on behalf of the contractor or an affiliate or a principal of the contractor has violated the terms of IC 24-4.7, even if IC 24-4.7 is preempted by federal law.

(e) If the attorney general establishes in a civil action that the contractor is knowingly, intentionally, or recklessly liable under subsection (d), the contractor is prohibited from entering into a

1 **contract with a governmental body for three hundred sixty-five**
 2 **(365) days after the date on which the contractor exhausts appellate**
 3 **remedies.**

4 **(f) In addition to any remedy obtained in a civil action brought**
 5 **under this section, the attorney general may obtain the following:**

6 **(1) All money the contractor obtained through each telephone**
 7 **call made in violation of the terms of IC 24-4.7, even if**
 8 **IC 24-4.7 is preempted by federal law.**

9 **(2) The attorney general's reasonable expenses incurred in:**

10 **(A) investigation; and**

11 **(B) maintaining the civil action.**

12 **(3) Reasonable costs and attorney's fees."**

13 Page 3, after line 19, begin a new paragraph and insert:

14 "SECTION 9. [EFFECTIVE UPON PASSAGE] **IC 5-22-1-2,**
 15 **IC 5-22-1-3, and IC 5-22-2-1, all as amended by this act, and**
 16 **IC 5-22-2-13.3 and IC 5-22-3-7, both as added by this act, apply**
 17 **only to a contract entered into or renewed after the effective date**
 18 **of this act.**

19 SECTION 10. **An emergency is declared for this act."**

20 Re-number all SECTIONS consecutively.

(Reference is to HB 1501 as printed February 15, 2005.)

and when so amended that said bill do pass .

Committee Vote: Yeas 9, Nays 0.

Senator Long, Chairperson